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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/909,823	07/23/2001	Carsten Burmeister	2001_0944A	3053
513	7590	11/15/2005	EXAMINER	
WENDEROTH, LIND & PONACK, L.L.P.			FOX, JAMAL A	
2033 K STREET N. W.				
SUITE 800			ART UNIT	
WASHINGTON, DC 20006-1021			PAPER NUMBER	
			2664	

DATE MAILED: 11/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/909,823

Applicant(s)

BURMEISTER ET AL.

Examiner

Jamal A. Fox

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4-6, 9, 11, 12, 14-16 and 19 is/are rejected.
- 7) ☒ Claim(s) 3, 7, 8, 10, 13, 17, 18 and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☒ Certified copies of the priority documents have been received in Application No. 09/909,823.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1, 2, 5, 6, 9, 11, 12, 15, 16 and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Chuah (U.S. Patent No. 6,839,339). Referring to claim 1, Chuah discloses a method of transmitting data packets in a packet stream, the data packets having compressed headers (compressed header, col. 7 lines 52), said method comprising: compressing a header using a context (context, col. 5 lines 14-42); transmitting at least one update packet (RTP context update, col. 5 lines 14-42); and transmitting (transmitting, col. 5 lines 1-14) at least one non-update packet (RTP context set up, col. 5 lines 14-42);

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detecting an irregular change (change, col. 5 line 25) of the packet stream;
determining at least one packet stream parameter (col. 7 lines 12-20); and
transmitting depending on the determined at least one packet stream parameter,
either an extended update packet (context update code and RTP header
extension, col. 5 lines 14-42 and col. 7 lines 25-30) containing information about
the irregular change **or** an extended non-update packet containing information
(changed (or delta) information, col. 5 lines 25-30) about the irregular change,
wherein the extended non-update packet is not used to update the context.

Referring to claim 2, Chuah discloses the method according to claim 1,
wherein the packet stream parameter is the maximum (maximum, col. 7 lines 39-
42) number of consecutive packet loss.

Referring to claim 5, Chuah discloses the method according to claim 2,
wherein the number of extended update packets is set dependent on the packet
stream parameter (this is inherent because the context update code is one byte
and each of the fields will vary to make up that one byte).

Referring to claim 6, Chuah discloses the method of claim 2, wherein said
determining of the at least one packet stream parameter includes obtaining the
number of subsequent packets (subsequent packets, col. 5 lines 43-55) for which
the irregular change is valid.

Referring to claim 9, Chuah discloses the method according to claim 6,
wherein the number of subsequent packets (subsequent packets, col. 5 lines 43-
55) for which the irregular change is valid has been estimated by retrieving
observed packet stream properties.

Referring to claim 11, Chuah discloses an apparatus (See Figure 2) for transmitting data packets in a packet stream, the data packets having compressed headers, said apparatus comprising: a compressor for compressing a header (compressed header, col. 7 lines 52) using a context (context, col. 5 lines 14-42); a transmission unit for transmitting at least one update packet (RTP context update, col. 5 lines 14-42) containing data indicating the context, wherein said transmission unit is adapted to transmit at least one non-update packet (RTP context set up, col. 5 lines 14-42); a detection unit for detecting an irregular change (change, col. 5 line 25) of the packet stream; and a control unit for determining at least one packet stream parameter (col. 7 lines 12-20); wherein said transmission unit is operable to transmit, depending on the determined at least one packet stream parameter, either an extended update packet (context update code and RTP header extension, col. 5 lines 14-42 and col. 7 lines 25-30) containing information about the irregular change **or** an extended non-update packet containing information about the irregular change (changed (or delta) information, col. 5 lines 25-30); and wherein the extended non-update packet is not used to update the context.

Referring to claim 12, Chuah discloses the apparatus according to claim 11, wherein the packet stream parameter is the maximum (maximum, col. 7 lines 39-42) number of consecutive packet loss.

Referring to claim 15, Chuah discloses the apparatus according to claim 12, wherein the number of extended update packets is set dependent on the

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packet stream parameter (this is inherent because the context update code is one byte and each of the fields will vary to make up that one byte).

Referring to claim 16, Chuah discloses the apparatus according to claim 12, wherein said control unit determining the at least one packet stream parameter is operable to obtain the number of subsequent packets (subsequent packets, col. 5 lines 43-55) for which the irregular change is valid.

Referring to claim 19, Chuah discloses the apparatus according to claim 16, wherein the number of subsequent packets (subsequent packets, col. 5 lines 43-55) for which the irregular change is valid has been estimated by retrieving observed packets stream properties.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chuah in view of Le et al. (U.S. Patent No. 6,782,047).

Referring to claim 4, Chuah discloses the method according to claim 2, but does not explicitly teach of wherein the maximum number of consecutive packet loss is estimated by extracting a sequence number from a received non-acknowledgement message and comparing the extracted sequence number with the current sequence number. However, Le et al. discloses a NACK mechanism

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in (col. 2 lines 48-54). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have included the NACK mechanism of Le et al. to the invention of Chuah in order to let the compressor know when the decompressor is not able to decompress a packet as suggested by Le et al.

Referring to claim 14, Chuah discloses the apparatus according to claim 12, but does not explicitly teach of wherein the maximum number of consecutive packet loss is estimated by extracting a sequence number from a received non-acknowledgment message and comparing the extracted sequence number with the current sequence number. However, Le et al. discloses a NACK mechanism in (col. 2 lines 48-54). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have included the NACK mechanism of Le et al. to the invention of Chuah in order to let the compressor know when the decompressor is not able to decompress a packet as suggested by Le et al.

Allowable Subject Matter

5. Claims 3, 7, 8, 10, 13, 17, 18, and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

6. Applicant's arguments filed 8/26/2005 have been fully considered but they are not persuasive. Applicant argued that the context update code of Chuah,

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clearly does not provide any information for deciding when and how to send information about an irregular change. However, one skilled in the art would recognize that the irregular change is the additional change disclosed in (col. 5 lines 25-30).

7. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., for deciding) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant argued that the context update code of Chuah is not used for deciding how to send information about an irregular change to a decompressor.

8. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., decompressor) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant argued that Chuah clearly does not disclose or suggest that when an irregular change of the packet stream is detected, at least one packet parameter is determined. However, one skilled in the art would recognize that the packet stream is disclosed in (col. 7 lines 30-35).

Applicant argued that Chuah does not disclose or suggest transmitting, depending on the determined at least one packet parameter, either an extended update packet containing information about the irregular change or an extended non-update packet containing information about the irregular change, as recited in claims 1 and 11. However, one skilled in the art would recognize that transmitting, depending on the determined at least one packet parameter, either an extended update packet containing information about the irregular change or an extended non-update packet containing information about the irregular change is disclosed in (col. 7 lines 25-30).

Applicant argued that Chuah cannot be interpreted as also disclosing the extended non-update packet as recited in claims 1 and 11. However, one skilled in the art would recognize that Chuah does not need to disclose the extended non-update packet because the claim has an **or** limitation.

Applicant argued that Le et al. fails to disclose or suggest that if an irregular change of the packet stream is detected, at least one packet stream is determined, and, depending on the determined at least one packet stream parameter, either an extended update packet containing information about the irregular change or an extended non-update packet containing information about the irregular change is transmitted, where the extended non-update packet is not used to update the context.

9. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642

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F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamal A. Fox whose telephone number is (571) 272-3143. The examiner can normally be reached on 6:30 AM - 5:00 PM.

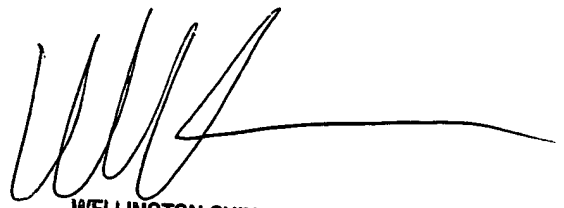
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on (571) 272-3134. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jamal A. Fox



WELLINGTON CHIN
SUPERVISORY PATENT EXAMINER